

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

DUFFY ARCHIVE LIMITED,

Plaintiff,

v.

BRM INVESTMENTS, INC. FKA HUCK  
CYCLES, LLC, and BRETT MCCOY

Defendant.

CA: \_\_\_\_\_

JURY DEMANDED

**COMPLAINT FOR COPYRIGHT INFRINGEMENT  
(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff DUFFY ARCHIVE LIMITED by and through its undersigned counsel, brings this Complaint against Defendants BRM INVESTMENTS, INC. FKA HUCK CYCLES, LLC and BRETT MCCOY for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff DUFFY ARCHIVE LIMITED ("Duffy") brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Duffy's original copyrighted Work of authorship.

2. The archive is made up of negatives and contact sheets of the work of legendary photographer and film producer Brian Duffy that have been retrieved from numerous UK and international publications such as Vogue, French Elle, Glamour, The Sunday Times, The Telegraph to name but a few in addition to work held by independent archives. Duffy's work has been exhibited in numerous galleries and museums around the world. In 2013, the Victoria and Albert Museum procured the right to use Duffy's "Aladdin Sane" image as the lead image for the "David Bowie" exhibition. In 2014, Duffy's second book was released "Duffy Bowie: Five

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Sessions", which covers the back story to his work with David Bowie. The process of exhibiting Duffy's work continues and the future holds several more book projects illuminating Duffy's eclectic and influential work.

3. Defendant BRM INVESTMENTS, INC. FKA HUCK CYCLES, LLC ("BRM") is an electric bike and electric Moped builder and retailer. At all times relevant herein, BRM owned and operated the instagram handle @huckcycles (the "Website").

4. Defendant BRETT MCCOY (McCoy) is the owner and CEO of BRM.

5. Duffy alleges that Defendants copied Duffy's copyrighted Work from the internet in order to advertise, market and promote its business activities. Defendants committed the violations alleged in connection with Defendants' business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants' business.

### **JURISDICTION AND VENUE**

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendants are subject to personal jurisdiction in North Carolina.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Defendants resides in this district, and Defendants are subject to personal jurisdiction in this district.

### **DEFENDANTS**

10. Defendant BRM Investments, Inc. fka Huck Cycles, LLC is a North Carolina Corporation, with its principal place of business at 11020 Bailey Road, Unit D, Cornelius, NC

28031, and can be served by serving its Registered Agent, Brett McCoy, 11020 Bailey Rd., Unit D, Cornelius, NC 28031.

11. On information and belief, Defendant Brett McCoy is an individual who resides in Davidson, North Carolina.

**THE COPYRIGHTED WORK AT ISSUE**

12. In 1973, Duffy created the photograph entitled “Z\_1258\_01”, which is shown below and referred to herein as the “Work.”



13. Duffy registered the Work with the Register of Copyrights on June 12, 2009 and was assigned the registration number VA1-428-937. The Certificate of Registration is attached hereto as **Exhibit 1**.

14. Duffy's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

15. At all relevant times Duffy was the owner of the copyrighted Work at issue in this case.

### **INFRINGEMENT BY DEFENDANTS**

16. Defendants have never been licensed to use the Work at issue in this action for any purpose.

17. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

18. On or about August 19, 2020, Duffy discovered the unauthorized use of its Work on the Website.

19. Defendants copied Duffy's copyrighted Work without Duffy's permission.

20. After Defendants copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its bike and moped manufacturing and retail business.

21. Defendants copied and distributed Duffy's copyrighted Work in connection with BRM's business for purposes of advertising and promoting BRM's business, and in the course and scope of advertising and selling products and services.

22. Duffy's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

23. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

24. Duffy notified Defendants of the allegations set forth herein on February 12, 2021. To date, the parties have failed to resolve this matter.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

25. Duffy incorporates the allegations of paragraphs 1 through 24 of this Complaint as if fully set forth herein.

26. Duffy owns a valid copyright in the Work at issue in this case.

27. Duffy registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

28. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Duffy's authorization in violation of 17 U.S.C. § 501.

29. Defendants performed the acts alleged in the course and scope of their business activities.

30. Defendants' acts were willful.

31. Duffy has been damaged.

32. The harm caused to Duffy has been irreparable.

**COUNT II**  
**VICARIOUS COPYRIGHT INFRINGEMENT BY BRETT MCCOY**

33. Duffy incorporates the allegations of paragraphs 1 through 24 of this Complaint as if fully set forth herein.

34. Duffy owns a valid copyright in the Work at issue in this case.

35. Duffy registered the <<IF (Intellectual Property Details 2/Intellectual Property Type) Exists () THEN>>Works<<ELSE>>Work<<END IF>> at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

36. McCoy copied, displayed and distributed the <<IF (Intellectual Property Details 2/Intellectual Property Type) Exists () THEN>>Works<<ELSE>>Work<<END IF>> at issue in this case and made derivative of the <<IF (Intellectual Property Details 2/Intellectual Property Type) Exists () THEN>>Works<<ELSE>>Work<<END IF>> without Duffy's authorization in violation of 17 U.S.C. § 501.

37. McCoy had the right and ability to supervise the infringing activities of BRM alleged herein.

38. As a result of McCoy's vicarious infringement as alleged above, BRM obtained direct and indirect profits it would otherwise not have realized but for its infringement of the Work.

39. Duffy has been damaged.

40. The harm cause to Duffy has been irreparable.

WHEREFORE, the Plaintiff Duffy Archive Limited prays for judgment against the Defendants BRM Investments, Inc. fka Huck Cycles, LLC and Brett McCoy that:

a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff its actual damages and BRM's profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Plaintiff be awarded its attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; *and* that

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all issues.

DATED: July 7, 2023

Respectfully submitted,

**LEJUNE LAW FIRM**

**By: /s/ Dana A. LeJune**

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And

/s/ Layla T. Nguyen

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